


FILED

Steven Mark Rosenberg,
106 1-2 Judge John Aiso Street, PMB# 225
Los Angeles, CA 90012
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Pro se Plaintiff

2019 JAN 16 PM 2:56

CENTRAL DISTRICT OF CALIF.
LOS ANGELES

BY: 

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Steven Mark Rosenberg,

Debtor

STEVEN MARK ROSENBERG

Appellant

v.

DEUTSCHE BANK NATIONAL
TRUST COMPANY, AS TRUSTEE
FOR ALLIANCE BANCORP
MORTGAGE BACKED
CERTIFICATE SERIES 2007-OA1,
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,
OCWEN LOAN SERVICING, LLC
ALLIANCE BANCORP, INC
(ESTATE)

Appellee (s)

)
)
) District Court Case Number:
) CV 18-10188 -AG
)
) Bankruptcy Court Case Number:
) 1:17-bk-11748-VK
)
) Adversary Case Number:
) 1:17-ap-01096-VK
)
) RESPONSE TO ORDER TO SHOW
) CAUSE
)
) UNITED STATES DISTRICT JUDGE:
) HONORABLE ANDREW J. GUILFORD
)
) Hearing Date: tbd

RESPONSE TO ORDER TO SHOW CAUSE

1 The Appellant, Steven Rosenberg respectfully files this response to order to show
2 cause per Minute Order dated 01/03/19, wherein the Honorable Judge required
3 the Appellant to explain the untimely filing of notice of appeal from the June 7,
4 2018 amended Order of Bankruptcy by Judge Victoria S. Kaufman.

5 The Appellant respectfully submits that there has been no delay in filing the
6 notice of appeal and the notice of appeal has been within the time period
7 prescribed under Rule 4 of the Federal Rules of Appellate Procedure (hereinafter
8 referred to as 'FRAP'). Rule 4(a) of FRAP deals with appeal in a civil case. Rule
9 4(a)(1)(A) states that, .

10
11 *"In a civil case, except as provided in Rules 4(a)(1)(B), 4(a)(4), and 4(c), the notice of*
12 *appeal required by Rule 3 must be filed with the district clerk within 30 days after*
13 *entry of the judgment or order appealed from."*

14 In the instant case, the Honorable Judge viewpoint is that the entry of judgment
15 was on June 7, 2018 with regard to the adversary proceeding that was filed by the
16 Appellant and therefore, the notice of appeal being filed on December 6, 2018 is
17 beyond the prescribed time under Rule 4 of FRAP.

18 However, in the instant case it is pertinent to note that the Appellant herein had
19 on June 11, 2018 *filed for an order to amend or alter judgment as per Rule 59(e)* of
20 Federal rules of Civil Procedure (hereinafter referred to as 'FRCP') for
21 reconsideration of the judgment entered on June 7, 2018 by Judge Victoria S.
22 Kaufman.

23
24 In the Motion to Alter, the Appellant once again asserted the point that equitable
25 tolling applies to the adversary proceeding filed by the Appellant and the Appellant
26 has standing to challenge the assignments. The Appellant had also asserted that
27 such right to challenge assignments arose from Rule 17 of FRCP. The Appellees
28 herein did not file any opposition to the Motion to Alter judgment that was filed by

1 the Appellant herein; instead Deutsche Bank, Ocwen and MERS filed motion to
 2 sanction the Appellant herein under Rule 9011 of Federal Rules of Bankruptcy
 3 Procedure. Thereafter the Appellant herein had filed response to the Rule 11
 4 motion for sanctions on November 20, 2018.

5 In pursuance to the same, on November 21, 2018 the Court entered an order
 6 denying the Motion to Alter. As per Rule 4(a)(1)(A), there are few exceptions to the
 7 30 days period of filing of notice of appeal from date of entry of judgment. One
 8 such exception is those circumstances mentioned in Rule 4(a)(4). Rule 4(a)(4)
 9 states that,

10
 11 *“(4) Effect of a Motion on a Notice of Appeal*

12 *(A) If a party files in the district court any of the following motions under the Federal*
 13 *Rules of Civil Procedure—and does so within the time allowed by those rules—the*
 14 *time to file an appeal runs for all parties from the entry of the order disposing of the*
 15 *last such remaining motion:*

16 *(i) for judgment under Rule 50(b);*

17 *(ii) to amend or make additional factual findings under Rule 52(b), whether or not*
 18 *granting the motion would alter the judgment;*

19 *(iii) for attorney's fees under Rule 54 if the district court extends the time to appeal*
 20 *under Rule 58;*

21 ***(iv) to alter or amend the judgment under Rule 59;***

22 *(v) for a new trial under Rule 59; or*

23 *(vi) for relief under Rule 60 if the motion is filed no later than 28 days after the*
 24 *judgment is entered.”*

25 *(emphasis added)*

26 In the instant case the Appellant had filed a motion to alter judgment as per Rule
 27 59 of FRCP and the order regarding the same was entered on November 21, 2018.
 28 Thus, according to Rule 4(a)(4)(iv) of FRAP the time to file appeal would start

1 running only from November 21, 2018 and not June 7, 2018 as respectfully now
2 indicating, by herein pleading, respectfully noting misunderstood by the Honorable
3 Court.

4 Thus, as per Rule 4(a)(4) of FRAP the last day to file notice of appeal from Rule 59
5 motion to alter judgment entered on November 21, 2018 would be December 5,
6 2018. However, it is respectfully submitted that on the last date of filing of Notice
7 of Appeal i.e. on December 5, 2018 all government offices were closed on order of
8 the US President as the day was considered as day of Mourning for the demise of
9 former United States President Mr. George Bush (Sr.). In such circumstances the
10 Appellant was precluded and unable to file the notice of appeal on December 5,
11 2018.

12 According to Rule 26 of FRAP, it provides that,

13
14 *“(a) Computing Time. The following rules apply in computing any time period*
15 *specified in these rules, in any local rule or court order, or in any statute that does*
16 *not specify a method of computing time.*

17 *(1) Period Stated in Days or a Longer Unit. When the period is stated in days or a*
18 *longer unit of time:*

19 *(A) exclude the day of the event that triggers the period;*

20 *(B) count every day, including intermediate Saturdays, Sundays, and legal holidays;*
21 *and*

22 *(C) include the last day of the period, but if the last day is a Saturday, Sunday, or*
23 *legal holiday, the period continues to run until the end of the next day that is not a*
24 *Saturday, Sunday, or legal holiday.”*

25 Thus, in the instant case December 5, 2018 being a declared national observance
26 legal "holiday" by Executive Order, the last date of filing notice of appeal would be
27 computed to end on December 6, 2018; with the Appellant filing of their Notice of
28 Appeal with the Central District of California Bankruptcy Court Clerk (San

1 Fernando Valley) on December 6, 2018 thereby within the prescribed period and as
2 such there has been no untimely delay.

3
4
5 **CONCLUSION**

6 For the reasons stated above, the Plaintiff, Steven Rosenberg and behalf of
7 the Estate of Isadore Rosenberg respectfully moves the Court to accept and allow
8 the notice of appeal to have been filed within the prescribed time period mentioned
9 in Rule 4 of FRAP.

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11
12
13 Respectfully submitted,

14 Steven Mark Rosenberg

15 Steven Mark Rosenberg

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28
Date: 01/16/2019

NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY(S)
 STEVEN MARK ROSENBERG
 106 1/2 Judge John Aiso St. PMB #225
 Los Angeles, CA 90012
 Phone: 310-971-5037
 Email: founder@puttingelders1st.org

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

STEVEN MARK ROSENBERG

PLAINTIFF(S),

v.

Deutsche Bank National Trust Company, As
 Trustee for Alliance Bancorp Mortgage
 Backed Certificate Series 2007-OA1, et. al

DEFENDANT(S).

CASE NUMBER

**District Case Number CV 18-10188-AG
 Bankruptcy Case No. 1:17-bk-11748-VK
 Adversary Case No. 1:17-ap-01096-VK**

**PROOF OF SERVICE - ACKNOWLEDGMENT
 OF SERVICE**

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of
LOS ANGELES, State of California, and not a
 party to the above-entitled cause. On JANUARY 16, 2019, I served a true copy of
RESPONSE TO ORDER TO SHOW CAUSE

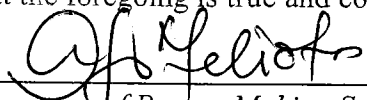
by personally delivering it to the person (s) indicated below in the manner as provided in FRCivP 5(b); by
 depositing it in the United States Mail in a sealed envelope with the postage thereon fully prepaid to the following:
 (list names and addresses for person(s) served. Attach additional pages if necessary.)

Place of Mailing: LOS ANGELES, CALIFORNIA

Executed on JANUARY 16, 2019 at LOS ANGELES, California

Please check one of these boxes if service is made by mail:

- ☐ I hereby certify that I am a member of the Bar of the United States District Court, Central District of California.
- ☐ I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.
- ☒ I hereby certify under the penalty of perjury that the foregoing is true and correct.


 Signature of Person Making Service

ACKNOWLEDGEMENT OF SERVICE

I, _____, received a true copy of the within document on _____.

 Signature

 Party Served

ATTACHED SERVICE LIST

MERS (Mortgage Electronic Registration Systems, Inc.)

Attn: T. Robert Finlay, Partner

Cc: Nicole Dunn, Esq.

4665 MacArthur Court, Suite 200

Newport Beach, CA 92660

Ocwen Loan Servicing, Inc.

c/o T. Robert Finlay, Partner

Cc: Nicole Dunn, Esq.

4665 MacArthur Court, Suite 200

Newport Beach, CA 92660

United States Trustee (SV)

915 Wilshire Blvd., Suite 1850

Los Angeles, CA 90017

213-894-6811

U.S. Trustee

Deutsche Bank National Trust in

Alliance Bancorp Trust 2007 OA-1

c/o Robert Garrett of Law Firm of Garrett & Tully

225 S. Lake , Suite 1400

Pasadena, CA 91101

Estate of Alliance Bancorp. Inc.

Attn: Charles A. Stanziale, Jr. Esq. Trustee

100 Mulberry Street

Newark, NJ 07102

Honorable Andrew J. Guilford

Santa Ana Division

Court 10D

411 West 4th Street

Santa Ana, CA 92701-4516